

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH SCOTT WRIGHT,

Petitioner,

v.

ED TROYER,

Respondent.

CASE NO. 3:22-cv-05621-LK-GJL

ORDER GRANTING MOTION TO
SUBSTITUTE PROPER
RESPONDENT

This is a federal habeas action filed under 28 U.S.C. § 2254. Before the Court is Respondent’s Motion to Substitute Proper Respondent. Dkt. 20. In the Motion, Respondent informs the Court that Petitioner is no longer incarcerated at the Pierce County Jail and, therefore, Pierce County Sheriff Ed Troyer is no longer the proper respondent in this habeas action. *See* Dkt. 20. Respondent requests the court substitute the proper respondent—Superintendent Jason Bennett at Stafford Creek Corrections Center—in this matter. *Id.* Upon review, the Court agrees Superintendent Bennett is the proper respondent and grants the motion.

The proper respondent to a habeas petition is the “person who has custody over [the petitioner].” 28 U.S.C. § 2242; *see also* § 2243; *Brittingham v. United States*, 982 F.2d 378 (9th

1 Cir. 1992); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989). At the time Petitioner filed his
2 Petition, he was being held in the Pierce County Jail as a pretrial detainee. *See* Dkt. 1. However,
3 in November 2022, Petitioner was transferred to the custody of the Department of Corrections to
4 begin serving his state sentence. *See* Dkt. 20. Petitioner is currently incarcerated at the Stafford
5 Creek Corrections Center. *See id.* As such, the Superintendent of Stafford Creek Corrections
6 Center is now the proper respondent in this matter. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435
7 (2004) (the person having custody of the person detained for purposes of § 2254 is typically the
8 warden of the facility where the petitioner is incarcerated).

9 The motion to substitute (Dkt. 20) is granted. The Clerk is directed to substitute the
10 correct respondent—Superintendent Jason Bennett at Stafford Creek Corrections Center—in this
11 matter.

12 Dated this 26th day of April, 2023.

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15 Grady J. Leupold
16 United States Magistrate Judge
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